

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

WENDY RACHILLE FOLKER,

Defendant.

MEMORANDUM DECISION AND  
ORDER DENYING DEFENDANT'S  
MOTION TO ALTER JUDGMENT

Case No. 2:03-CR-112 TS

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This matter is before the Court on Defendant's Motion to Alter Judgment. Because the Court lacks the authority to provide Defendant the relief she seeks, the Court must deny the Motion.

I. BACKGROUND

On February 12, 2003, Petitioner was charged in a four-count indictment with Possession of a List I Chemical, Possession of a List II Chemical, and Possession of Methamphetamine with Intent to Distribute. Petitioner pleaded guilty on January 9, 2004. On May 6, 2004, Petitioner was sentenced to a term of 210 months incarceration.

Defendant now moves the Court to reduce her sentence, explaining that she has performed well while incarcerated and was recently diagnosed with Chronic Myeloid Leukemia. Based upon her medical condition and good behavior, Defendant seeks a reduction in her sentence.

## II. DISCUSSION

“A district court does not have inherent authority to modify a previously imposed sentence; it may do so only pursuant to statutory authorization.”<sup>1</sup> Because Defendant’s Motion is not a direct appeal or a collateral attack under 28 U.S.C. § 2255, her Motion depends on 18 U.S.C. § 3582(c)<sup>2</sup> or Federal Rule of Criminal Procedure 36.

The only possible basis for Plaintiff’s Motion is found in 18 U.S.C. § 3582(c)(1)(A)(i). Under that provision, “the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment . . . if it finds that . . . extraordinary and compelling reasons warrant such a reduction.” In this case, there is no motion from the Director of the Bureau of Prisons. Therefore, the Court lacks authority to reduce her sentence under this provision. While the Court is sympathetic to Defendant’s condition, the Court is unable to grant her request.

## III. CONCLUSION

It is therefore

ORDERED that Defendant’s Motion to Alter Judgment (Docket No. 195) is DENIED.

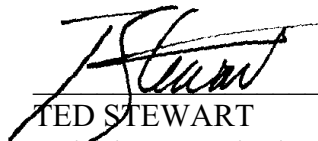
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<sup>1</sup>*United States v. Mendoza*, 118 F.3d 707, 709 (10th Cir. 1997).

<sup>2</sup>*See United States v. Smartt*, 129 F.3d 539, 540 (10th Cir. 1997).

DATED August 9, 2013.

BY THE COURT:



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TED STEWART  
United States District Judge